

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

SEAN WILSON, individually and on behalf
of all other similarly situated,

Plaintiff,

v.

PTT, LLC, a Delaware limited liability
company d/b/a HIGH 5 GAMES, LLC, a
Delaware limited liability company,

Defendant.

NO. 3:18-cv-05275-RBL

**DECLARATION OF PHILIP
WELTY IN SUPPORT OF MOTION
FOR PROTECTIVE ORDER RE
SUBPOENAS TO APPLE, INC. AND
GOOGLE LLC**

**NOTE ON MOTION CALENDAR:
February 7, 2020**

I, Philip Welty, declare and state as follows:

1. I have worked for High 5 Games, LLC ("High 5") for over ten years in game design. My current title is Director of Game Design. In the course of my job duties during the time I have worked at High 5, I have become familiar with the social gaming applications High 5 Casino and High 5 Vegas. I make this declaration based on my personal knowledge.

2. High 5 Casino and High 5 Vegas are two different social gaming applications created by High 5. Each must be downloaded separately from an app store in order to be used by a consumer on a mobile device or in separate pages on a web browser if using on a personal computing device. Each must be opened and played separately. The virtual coins in High 5 Casino cannot be transferred to High 5 Vegas, nor can the virtual coins in High 5

1 Vegas be transferred to High 5 Casino. With the exception of Club High 5, High 5 Casino
2 and High 5 Vegas are entirely separate.

3 3. Both High 5 Casino and High 5 Vegas offer players free virtual coins. Both
4 applications offer a first-time player an allotment of free virtual coins. A player is a first-time
5 player upon entering each of the applications for the first time. That is, a long-time player of
6 High 5 Casino is a first-time player of High 5 Vegas the first time he or she downloads and
7 opens High 5 Vegas. After a first-time player receives his or her first allotment of free virtual
8 coins, further free virtual coins are available in High 5 Casino and High 5 Vegas through
9 different means.

10 4. High 5 Vegas offers free virtual coins on a constant, ongoing basis so that the
11 player never runs out of virtual coins. In the High 5 Vegas app, the top center portion of the
12 screen displays a free virtual coin counter under a button marked "COLLECT." The free
13 virtual coin counter is constantly ticking up the balance of available free virtual coins.
14 Whether the app is open or closed, the counter continues until it reaches a set maximum. At
15 any point in time, the player may push the "COLLECT" button, and the free virtual coins will
16 be added to his or her bank of virtual coins. The free virtual coin counter resumes ticking
17 upward immediately upon collection. High 5 Vegas offers additional free virtual coins
18 including with a daily bonus. One of the primary means of collecting free virtual coins in
19 High 5 Vegas, however, is by pushing the "COLLECT" button to harvest the constantly
20 accruing virtual coins. A player of High 5 Vegas may collect free virtual coins without
21 exiting a game and going to the app's "lobby."

22 5. High 5 Casino offers free virtual coins through different means. Free virtual
23 coins are available to a player by opening the app and collecting coins every four hours,
24 through a daily bonus, and free spins of a wheel in the app's "lobby," (known as "lobby
25 spins"), among other ways. Unlike High 5 Vegas, High 5 Casino does not offer free virtual
26 coins through a virtual coin counter that constantly ticks up a balance of available coins.

6. The High 5 Casino and High 5 Vegas applications are platforms that provide numerous games to play within the respective application. High 5 Casino's platform provides a user with a number of unique games to play. High 5 Vegas's platform provides a user with a number of unique games to play. Several of the games available on High 5 Casino, including the game called "Bah, Humbug!" and several of the games that Plaintiff Wilson played on High 5 Casino, are not available on High 5 Vegas. Several of the games available on High 5 Vegas are not available on High 5 Casino.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 30th day of January, 2020.

/s/ Philip Welty
Philip Welty

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 30th day of January, 2020, I electronically filed the
3 foregoing **DECLARATION OF PHILIP WELTY IN SUPPORT OF MOTION FOR**
4 **PROTECTIVE ORDER RE SUBPOENAS TO APPLE, INC. AND GOOGLE LLC**
with the Clerk of the Court using the CM/ECF system which will send notification of such
filing to the following:

5 **Attorneys for Plaintiff**

6 Cecily C. Shiel
7 TOUSLEY BRAIN STEPHENS PLLC
8 1700 7th Ave Ste 2200
9 Seattle WA 98101-4416
Tel: (206) 682-5600
cshiel@tousley.com

10 **Attorneys for Plaintiff**

11 Benjamin H. Richman
12 EDELSON PC
13 350 North LaSalle St 14th Fl
Chicago IL 60654
Tel: (312) 589-6370
brichman@edelson.com

14 **Attorneys for Plaintiff**

15 Todd Logan
16 Rafey S. Balabanian
17 Eve-Lynn Rapp
18 Brandt Silver-Korn
19 EDELSON PC
123 Townsend St Ste 100
San Francisco CA 94107
Tel: (415) 638-9660
tlogan@edelson.com
rbalabanian@edelson.com
erapp@edelson.com
bsilverkorn@edelson.com

22
23 /s/ Stacy Gust

24 Stacy Gust, Legal Assistant

25 14116986_v2

26 DECLARATION OF PHILIP WELTY IN
SUPPORT OF MOTION FOR
PROTECTIVE ORDER RE SUBPOENAS
TO APPLE, INC. AND GOOGLE LLC-4
(3:18-cv-05275-RBL)

HOLLAND & HART LLP
800 W. MAIN STREET, SUITE 1750
BOISE, ID 83702
TEL: 208.342.5000 • FAX:
208.343.8869